

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

Memoranda
PL-II
31397

B-218324

FILE:

DATE: June 7, 1985

Old Dominion Security, Inc.

MATTER OF:

DIGEST:

1. Bid modification, received by contracting agency prior to bid opening time, that was misplaced and discovered after bid opening, may be accepted where agency determined that lateness was due solely to government mishandling after receipt at the government installation. The time of receipt is established by the time-date stamp of the installation on the envelope.
2. Contention that awardee was not listed with a state agency, based on a general requirement for compliance with state and local laws, involves a question of responsibility which GAO will not review absent evidence of fraud or bad faith.

Old Dominion Security, Inc. (Old Dominion), protests the award of a contract to Largo Security Services (Largo) under invitation for bids (IFB) No. OPR-9PPC-85-02034, issued by the General Services Administration (GSA) for armed guard services at various locations within San Diego County, California.

The protest is denied.

Old Dominion contends that the award was improper because the abstract of bids that it requested from GSA 1 day before award and that it received after award indicates that it was the low bidder. Old Dominion also contends that Largo failed to acknowledge an amendment to the IFB and asserts that Largo is not listed with the state of California as a private patrol operator.

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GSA states that the award was proper because Largo's bid was the lowest as the result of a mailed modification that was mishandled by GSA after receipt at its facility and discovered after bid opening, but prior to award. The envelope in which Largo's modification was delivered, a copy of which was provided to us by GSA, is stamped as received on February 13, 1985, at 8:09 a.m., over 2 days prior to the bid opening on February 15, 1985, at 11 a.m. GSA states that a notation was made on the abstract of bids upon discovery of Largo's modification.

Old Dominion questions GSA's statement that the abstract was modified because the abstract it received contained no such notation. The abstract provided our Office by GSA includes undated annotations of Largo's modified bid. The actual date of annotation, however, is not relevant to the issue in this case. The real question is whether GSA may accept Largo's bid modification after bid opening.

Under the late bid clause incorporated in the solicitation, Federal Acquisition Regulation (FAR), 48 C.F.R. § 52.214-7 (1984), late modifications that are sent by mail may be considered if the government determines that the late receipt is due solely to government mishandling after receipt at the government installation. The time of receipt is established by the time-date stamp of the installation. 48 C.F.R. § 52.214-7(a)(2).

GSA has admitted that the late receipt of Largo's bid modification was due solely to GSA mishandling after receipt. The envelope containing the modification was apparently misplaced, then discovered unopened and attached to another envelope by the contract specialist who was assembling the bids in preparation for evaluation. Although Old Dominion states that GSA has provided no evidence other than the time-date stamp to establish that Largo's modification was received on time, as we mentioned above, that is the evidence required under the regulations to establish the time of receipt. In these circumstances, we find the revision timely and the bid modification proper under 48 C.F.R. § 52.214-7(a). Singleton Contracting Corp., B-215186, Oct. 29, 1984, 84-2 CPD ¶ 471.

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With regard to Old Dominion's allegation that the state of California Bureau of Collection and Investigative Services has no listing of Largo as a private patrol operator, which Old Dominion suggests violates a general requirements in the IFB for compliance with state and local laws, that is a matter of responsibility, the agency determination of which GAO will not review in the absence of possible fraud or bad faith. Evergreen Helicopter, Inc., B-215373, July 18, 1984, 84-2 CPD ¶ 62.

Finally, contrary to Old Dominion's allegation, Largo did acknowledge receipt of amendment No. 1 to the IFB.

for *Raymond E. Gross*
Harry R. Van Cleve
General Counsel